UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	**SACV 11-0485 AG (AJWx)**	Date	August 19, 2011
Title	LISA LIBERI, et al. v. ORLY TAITZ, et al.		

Present: The Honorable	ANDREW J. GUILFORD	
Lisa Bredahl	Not Present	
Deputy Clerk	Court Reporter / Recorder	Tape No.

Attorneys Present for Plaintiffs: Attorneys Present for Defendants:

Proceedings: **[IN CHAMBERS] ORDER GRANTING MOTION TO STAY PENDING ANTI-SLAPP APPEAL AND DENYING MOTION TO DISMISS**

Defendants Orly Taitz, Defend Our Freedoms Foundation ("DOFF"), Orly Taitz, Inc., and the Law Offices of Orly Taitz (together, here, "Defendants") now file a "Motion by Defendant Orly Taitz for Stay of Proceedings" ("Motion to Stay"). (Dkt. # 278.) Plaintiffs Philip Berg, et al. ("Plaintiffs") opposed the Motion to Stay, and counsel for Orly Taitz filed a reply.

The Court finds this matter appropriate for resolution without a hearing. Fed. R. Civ. P. 78; Local Rule 7-15. After reviewing all papers and arguments submitted, the Court GRANTS the Motion to Stay only as to DOFF, Orly Taitz, Inc., and Orly Taitz.

Defendant Orly Taitz has also filed a Motion to Dismiss under Rule 12(b)(6). Because the Court has granted Orly Taitz's Motion to Stay, the Court DENIES the Motion to Dismiss at this time.

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BACKGROUND

Many of the parties to this case have a long, messy, and unhappy litigation history together, at times on the same side and at other times opposing. The claims in this case primarily allege invasion of privacy and defamation. In June 2011, the Court denied a Motion to Strike under Anti-SLAPP ("Anti-SLAPP Motion") filed by DOFF and Orly Taitz. (Dkt. # 227.) DOFF then filed a Notice of Appeal, as did Orly Taitz and Orly Taitz, Inc., as well.

Defendants now ask the Court "for an order staying the entire case" while the appeal is pending. (Motion at 2:1.) Orly Taitz also moves the Court to dismiss all claims alleged in the First Amended Complaint.

ANALYSIS

Under California Code of Civil Procedure § 425.16 ("Anti-SLAPP"), an order granting or denying an Anti-SLAPP motion shall be appealable under California Code of Civil Procedure § 904.1. As noted, DOFF appealed to the Ninth Circuit, and then Orly Taitz and Orly Taitz, Inc., did so as well.

Defendants argue that the Court should stay the entire case as to all claims and all parties, and Plaintiffs quietly acknowledge that the appeal "imposes an Automatic Stay of all proceedings related to the issues raised in its anti-SLAPP Motion to Strike." (Opposition at 14:14-16.) According to *Varian Medical Systems, Inc. v. Delfino*, 35 Cal. 4th 180 at 188-91 (Cal. Sup. Ct. 2005), the proceedings should be stayed while an Anti-SLAPP appeal is pending after the trial court denied an Anti-SLAPP motion. While this Court is concerned that California's Anti-SLAPP statute can provide a weapon that unnecessarily delays a case, this Court must follow *Varian*. But *Varian* also notes that the Anti-SLAPP law provides, through the awarding of attorney fees, some protection for those subject to an improper Anti-SLAPP motion. "And trial courts should not hesitate to award attorney's fees and costs to prevailing plaintiffs if the special motion to strike is frivolous

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or is solely intended to cause unnecessary delay." *Id*. at 196 (internal quotation omitted). If the Ninth Circuit finds, for example, that the Anti-SLAPP appeal is frivolous, the Court will keep this fact in mind when ruling on any attorney fee requests. The Court encourages the parties to be mindful of the Anti-SLAPP attorney fee provisions before filing motions or asserting claims.

In addition, district courts have the "inherent power" to stay proceedings. *Rivers v. Walt Disney Co.*, 980 F.Supp. 1358, 1360 (C.D. Cal. 1997); see also *Landis v. North American Co.*, 299 U.S. 248, 255 (1936) ("the power [of a District Court] to stay proceedings is incidental to the power inherent in every court to control . . . its docket").

The Court GRANTS the Motion to Stay as to all claims against only DOFF, Orly Taitz, and Orly Taitz, Inc. Since the Law Offices of Orly Taitz did not appeal the order denying the Anti-SLAPP motion, the Court DENIES the Motion to Stay as to the Law Offices of Orly Taitz. The stay does not apply to any non-moving defendants. The Court ORDERS DOFF, Orly Taitz, and Orly Taitz, Inc. to notify the Court within 10 days of a final ruling by the Ninth Circuit regarding the appeal of the Court's denial of the Anti-SLAPP Motion.

Regarding the Motion to Dismiss filed by Orly Taitz, the Court finds that it would be improper to rule on that Motion at this time. At the request of Orly Taitz, Orly Taitz, Inc. and DOFF, the Court has now stayed litigation regarding all claims against them. Since a purpose of staying litigation pending an Anti-SLAPP appeal is to conserve the resources of a defendant from the expense of unnecessary litigation, it would be antithetical to rule on the Motion to Dismiss now. For any claims not affected directly by the Anti-SLAPP Motion, the Court invokes its inherent power to manage its docket in order to keep these proceedings as orderly as possible. The Court thus DENIES the Motion to Dismiss at this time, without prejudice.

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DISPOSITION

The Court GRANTS in part the Motion to Stay. The Court DENIES the Motion to
Dismiss. The Court ORDERS DOFF, Orly Taitz, and Orly Taitz, Inc. to notify the Court
within 10 days of a final ruling by the Ninth Circuit regarding the appeal of the Court's
denial of the Anti-SLAPP Motion.

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